

THE HONORABLE STANLEY A. BASTIAN

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IN UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF WASHINGTON

RANDEY THOMPSON,

Plaintiff,

vs.

CENTRAL VALLEY SCHOOL DISTRICT
NO. 365; BEN SMALL INDIVIDUALLY
AS SUPERINTENDENT OF THE
CENTRAL VALLEY SCHOOL
DISTRICT, CENTRAL VALLEY
SCHOOL DISTRICT NO. 365 BOARD OF
EDUCATION AND IN THEIR
INDIVIDUAL CAPACITY BOARD OF
EDUCATION MEMBERS AND
DIRECTORS DEBRA LONG, MYSTI
RENEAU, KEITH CLARK, TOM
DINGUS, AND CYNTHIA MCMULLEN,

Defendants.

Cause No. 2:21-cv-00252-SAB

DEFENDANTS' ANSWER
TO PLAINTIFF'S
COMPLAINT FOR (1) FIRST
AMENDMENT
RETAILIATION CLAIMS
UNDER FIRST
AMENDMENT OF THE
UNTIED STATED
CONSTITUTION; (2) 42
U.S.C. § 1983 CLAIMS; (3)
INJUNCTION; AND (4)
PRELIMINARY
INJUNCTION AND
TEMPORARY
RESTRAINING ORDER

COME NOW Defendants CENTRAL VALLEY SCHOOL DISTRICT
NO. 365 ("CVSD"), BEN SMALL, DEBRA LONG, MYSTI RENEAU, KEITH
DEFENDANTS' ANSWER
TO COMPLAINT - page 1

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1 CLARK, TOM DINGUS, and CYNTHIA MCMULLEN, by and through their
2 attorneys of record of the law firm Evans, Craven & Lackie, P.S., and enter this
3
4 Answer to Plaintiff's Complaint as follows:

5
6 **COMPLAINT**

7 Plaintiff's Complaint contains an introduction consisting of a case citation
8 and a section entitled "Complaint." These introductory statements do not contain
9
10 factual assertions to which responses are deemed necessary. To the extent a
11
12 response is deemed necessary, Defendants deny all allegations of liability that
13 may be contained therein.

14
15 **JURISDICTION AND VENUE**

16 1. Admit.

17
18 2. Admit.

19
20 **PARTIES**

21 3. Admit.

22 4. Admit.

23
24 5. Admit.

25 6. Defendants admit the first sentence of Paragraph No. 6 of Plaintiff's
26

27 Complaint. The second sentence is a legal conclusion to which no
28

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30 DEFENDANTS' ANSWER
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1 response is deemed necessary. To the extent a response is deemed
2 necessary, Defendants deny all allegations of liability.
3

4 7. Defendants admit the first sentence of Paragraph No. 7 of Plaintiff's
5 Complaint. The second sentence is a legal conclusion to which no
6 response is deemed necessary. To the extent a response is deemed
7 necessary, Defendants deny all allegations of liability.
8
9

10 8. Defendants admit the first sentence of Paragraph No. 8 of Plaintiff's
11 Complaint. The second sentence is a legal conclusion to which no
12 response is deemed necessary. To the extent a response is deemed
13 necessary, Defendants deny all allegations of liability.
14
15

16 9. Defendants admit the first sentence of Paragraph No. 9 of Plaintiff's
17 Complaint. The second sentence is a legal conclusion to which no
18 response is deemed necessary. To the extent a response is deemed
19 necessary, Defendants deny all allegations of liability.
20
21

22 10. Defendants admit the first sentence of Paragraph No. 10 of Plaintiff's
23 Complaint. The second sentence is a legal conclusion to which no
24 response is deemed necessary. To the extent a response is deemed
25 necessary, Defendants deny all allegations of liability.
26
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1 11. Defendants admit the first sentence of Paragraph No. 11 of Plaintiff's
2 Complaint. The second sentence is a legal conclusion to which no
3 response is deemed necessary. To the extent a response is deemed
4 necessary, Defendants deny all allegations of liability.
5
6

7 12. Admit.

8 13. Admit.

9 14. Admit.

10 15. Admit.

11 16. Defendants admit that on or about August 17, 2020, Plaintiff made a post
12 on his Facebook account. Defendants are without sufficient information to
13 admit or deny the remaining allegations contained in Paragraph No. 16 of
14 Plaintiff's Complaint and therefore deny the same.
15
16
17
18

19 17. Defendants are without sufficient information to admit or deny the
20 allegations contained in Paragraph No. 17 of Plaintiff's Complaint and
21 therefore deny the same.
22
23

24 18. Defendants are without sufficient information to admit or deny the
25 allegations contained in Paragraph No. 18 of Plaintiff's Complaint and
26 therefore deny the same.
27

28 19. Deny.

29 DEFENDANTS' ANSWER
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1 20. Deny.

2 21. Admit.

3
4 22. Defendants are without sufficient information to admit or deny the
5 allegations contained in Paragraph No. 22 of Plaintiff's Complaint and
6 therefore deny the same.
7

8 23. Defendants are without sufficient information to admit or deny the
9 allegations contained in Paragraph No. 24 of Plaintiff's Complaint and
10 therefore deny the same.
11

12 24. Admit.

13 25. Deny.

14
15 26. Defendants admit that after Defendant Ben Small received the post,
16 Plaintiff was placed on administrative leave. Defendants are without
17 sufficient information to admit or deny the remaining allegations
18 contained in Paragraph No. 26 of Plaintiff's Complaint and therefore deny
19 the same.
20

21 27. Defendants admit that at the outset of the investigation Defendant School
22 District refused to identify who reported a concern about the statement.
23
24 However, the pleadings now include the names of those who submitted
25

1 concerns about the Facebook post. Defendants deny the remaining
2 allegations contained in Paragraph No. 27 of Plaintiff's Complaint.
3

4 28. Admit.

5 29. Deny.
6

7 30. Admit.

8
9 31. Defendants admit that Defendant School District and Defendant Ben
10 Small prohibited Plaintiff from having any contact or speaking with any
11 administrators, employees, parents or students of the district. Defendants
12 are without sufficient information to admit or deny the remaining
13 allegations contained in Paragraph No. 31 of Plaintiff's Complaint and
14 therefore deny the same.
15
16

17
18 32. Defendants admit that Plaintiff was advised by Defendant Ben Small by
19 an email copy of a letter that he was being transferred from his Assistant
20 Principal position to a teaching position on May 17, 2021. Defendants
21 deny all remaining allegations contained in Paragraph 32 of Plaintiff's
22 Complaint.
23
24

25 33. Admit.

26
27 34. Defendants admit that Plaintiff met with the individual Defendants and
28 Board Members/Directors of Defendant School District on June 14, 2021
29

1 in an online executive session during a regularly scheduled school board
2 meeting. Defendants deny the remaining allegations contained in
3 Paragraph No. 34 of Plaintiff's Complaint.
4

5
6 35. Defendants admit that the Defendant Board of Education and the
7 individual Defendants and members/directors affirmed and effectively
8 upheld the decision of Defendant, Ben Small, to transfer Plaintiff from an
9 assistant principal to a to a subordinate certificated position on June 16,
10 2021, by memorializing a letter to Plaintiff of their decision. Defendants
11 deny the remaining allegations contained in Paragraph No. 35 of
12 Plaintiff's Complaint.
13
14
15

16 36. Deny.
17
18

19 **COUNT ONE FIRST AMENDMENT RETAILIATION AND VIOLATION**
20 **OF MR. THOMPSON'S FIRST AMENDMENT CONSTITUTIONAL**
21 **RIGHTS – 42 U.S.C. § 1983**

22 37. No response to Paragraph No. 37 of Plaintiff's Complaint is deemed
23 necessary, as it does not set forth facts or allegations that can be admitted
24 or denied. To the extent that a response is deemed necessary, Defendants
25 deny all allegations of liability.
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1 38. Paragraph No. 38 of Plaintiff's Complaint consists of legal conclusions to
2 which no response is deemed necessary. To the extent a response is
3 deemed necessary, Defendants deny all allegations of liability.
4

5 39. Paragraph No. 39 of Plaintiff's Complaint consists of legal conclusions to
6 which no response is deemed necessary. To the extent a response is
7 deemed necessary, Defendants deny all allegations of liability.
8

9 40. Paragraph No. 40 of Plaintiff's Complaint consists of legal conclusions to
10 which no response is deemed necessary. To the extent a response is
11 deemed necessary, Defendants deny all allegations of liability.
12

13 41. Paragraph No. 41 of Plaintiff's Complaint consists of legal conclusions to
14 which no response is deemed necessary. To the extent a response is
15 deemed necessary, Defendants deny all allegations of liability.
16

17 42. Paragraph No. 42 of Plaintiff's Complaint consists of legal conclusions to
18 which no response is deemed necessary. To the extent a response is
19 deemed necessary, Defendants deny all allegations of liability.
20

21 43. Paragraph No. 43 of Plaintiff's Complaint consists of legal conclusions to
22 which no response is deemed necessary. To the extent a response is
23 deemed necessary, Defendants deny all allegations of liability.
24

25 44. Deny.
26

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1 45. Deny.

2 46. Deny.

3
4 47. Defendants admit that Defendant School District's Board had authority to
5 set policy for Defendant, School District. The remaining allegations
6 contained in Paragraph 47 of Plaintiff's Complaint consists of legal
7 conclusions to which no response is deemed necessary. To the extent a
8 response is deemed necessary, Defendants deny all allegations of liability.
9
10

11 48. Deny.

12 49. Deny.

13
14
15 **COUNT TWO – INJUNCTIVE RELIEF**

16 50. No response to Paragraph No. 50 of Plaintiff's Complaint is deemed
17 necessary, as it does not set forth facts or allegations that can be admitted
18 or denied. To the extent that a response is necessary, Defendants deny all
19 allegations of liability.
20
21

22 51. Deny.

23 52. Deny.

24 53. Deny.

25 54. Deny.

26 55. Deny.

27
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29 DEFENDANTS' ANSWER
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1 56. Deny.

2 **PRAYER FOR RELIEF**

3
4 Defendants deny that Plaintiff is entitled to any relief in this matter.
5
6 Defendants further deny any and all allegations of liability, as well as the
7 existence, nature and extent of Plaintiff's claimed injuries and damages.

8
9 To the extent any allegation contained in Plaintiff's Complaint was not
10 specifically admitted above, or lack of knowledge is claimed, it is denied.

11 **JURY DEMAND**

12
13 In accordance with F.R.C.P. 38 and pursuant to the Seventh Amendment,
14
15 Defendants hereby demand this matter appear before a jury.

16 **AFFIRMATIVE DEFENSES**

17
18 Defendants CVSD, Ben Small, Debra Long, Mysti Reneau, Keith Clark,
19 Tom Dingus and Cynthia McMullen hereby assert the following affirmative
20 defenses:
21

22 1. Plaintiff has failed to state a claim against Defendants.

23
24 2. Plaintiff's transfer of an administrative official to a subordinate
25 certificated position was affected in proper accordance with RCW §
26
27 28A.405.230.

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- 1 3. Plaintiff's claims are barred in whole or part by reason of his failure to
2 mitigate his alleged damages and/or the doctrine of after-acquired
3 evidence.
4
- 5 4. Defendants' actions or conduct, in their individual and/or official capacity,
6 were reasonable at all times relevant hereto and were undertaken in good
7 faith, and without any requisite culpable intent of committing a violation
8 of any of Plaintiff's clearly established constitutional rights. The
9 individually-named defendants are therefore entitled to qualified
10 immunity.
11
- 12 5. Plaintiff's own actions and conduct preclude his recovery.
13
- 14 6. Defendants' conduct throughout the investigation of Plaintiff was
15 reasonable, and had no motive based on Plaintiff's political preferences.
16
- 17 7. The action Plaintiff challenges was based on reasonable factors other than
18 posting a political message.
19
- 20 8. Defendants reserve the right to amend their Answer to include additional
21 affirmative defenses and/or counterclaims that may more fully develop
22 and/or any counterclaim to third party action that may be appropriate.
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27 WHEREFORE, having fully answered Plaintiff's Complaint, Defendants
28 respectfully request that the Court dismiss Plaintiff's Complaint with prejudice
29

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1 and award these answering Defendants their costs and attorneys' fees incurred in
2 defending against these claims.
3

4 DATED this 30th day of September, 2021.

5 EVANS, CRAVEN & LACKIE, P.S.
6

7
8 By: s/ Michael E. McFarland, Jr.
9 MICHAEL E. McFARLAND, JR., #23000
10 Attorneys for Defendants
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CERTIFICATE OF SERVICE

I hereby certify that on September 30, 2021, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF System which will send notification of such filing to the following:

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